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December 11, 2018

Cary Lee Peterson
Monmouth County Correctional Institution
1 Waterworks Rd.
Freehold, NJ 07728

ATTN: Clerk of the Court
Criminal Division
U.S. District Court of New Jersey
402 E. State St.
Trenton, NJ 08608

Re: USA v. Cary Lee Peterson, 16-cr-230
(AET) - Ex parte Motion for Waiver of
Counsel, Appointment of Standby Counsel,
and Renewal of Omnibus Motion,
Motion for Judgment of Acquittal,
and Post-Conviction Bail / Detention
Order (hereafter referred to as "Omnibus Motion")

Dear Court Clerk:

Please take notice that on this 11th
day of December, 2018, or as soon
thereafter as counsel can be heard
and confirm his adoption of the
Defendant's notice of the aforesaid
requests to this court, which shall
be in lieu of a Faretta Hearing
and formal court motion due to
circumstances that have placed the
Defendant in a position with very
limited resources to advocate and
plead the matter at hand, and multiple
related cases pending with other
jurisdictions and tribunals, including

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Cary Lee Peterson v. Garvey Schubert Barer [and] John Doe, 3:18-CV-14649-BRM-LHG, a civil case being heard with the same courthouse at USA v. Cary Lee Peterson.

Thus, the Defending Party respectfully moves this Honorable Court for an Order to allow the Defendant, Cary Lee Peterson to waive the right to Counsel, appoint standby Counsel [Eric Marcy], and proceed as Pro Se in his defense pursuant to New Jersey Court Rule 3:4-2, and for such other and further relief as the court deems just and proper, pursuant to the pleadings of this handwritten legal brief.

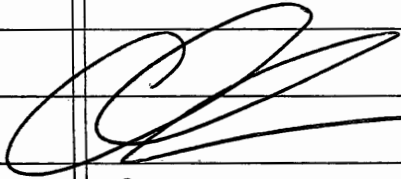
Please take further notice that the Defendant will rely on the enclosed certification in support of within this omnibus motion.

Please take further notice that the Defendant requests (1) grand jury minutes, (2) all Brady and Jencks materials related to government witnesses, (3) all Brady materials related to Garvey Schubert Barer [law firm] and ANY complaints against Defendant filed by an individual or non-governmental organization, (4) minutes from jury trial witness testimonies [only; not minutes from the entire jury trial], and an Ake motion order to perpetuate legal consultation and assessment (to be used

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for motions for departure or other proceedings) from former defendant expert-witness, Merritt Cole, Esq., in the event a hearing or deposition is ordered to plead the matter at hand, or the court decides to proceed with Sentencing hearing(s), as previously scheduled.

Respectfully submitted,



Cary Lee Peterson

12/11/2018

Date

CC: Eric J. Marcy, Esq. ;
AUSA-NJ, Ari Fontecchio

12/11/2018

Cary Lee Peterson
Monmouth Co. Correctional Institution
1 Waterworks Rd.
Freehold, NJ 07728

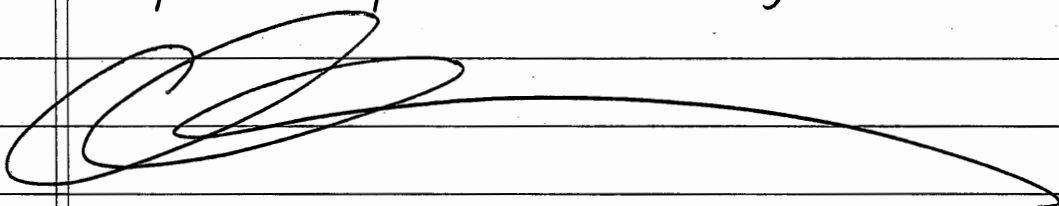
Re: USA v. Cary Lee Peterson, 16-cr-230
(AET) - Certification to Support Omnibus
Motion

Dear Court Clerk:

Please accept this Certification at the
Chamber of Honorable Judge Anne E.
Thompson in lieu of a more formal
brief in support of Defendant's
Omnibus Motion.

Thereby, Defendant, Cary Lee Peterson
being duly sworn, deposes and says
that he is the petitioner above named,
and that he has read the foregoing
petition for "Omnibus Motion", by him
subscribed, and knows the contents there-
of, and that the same are true of
his own knowledge, except as to those
matters therein alleged on information
and belief, and as to those matters,
he believes it to be true.

Respectfully submitted,



Cary Lee Peterson

Intro

4B

Cary Lee Peterson [Pro Se]
Monmouth Co. Correctional Institution
1 Waterworks Rd.
Freehold, NJ 07728
caryleepeterson@mail.com

December 12, 2018

ATTN TO: Clerk of the Court
Chamber of Hon. Judge Thompson

Re: USA v. Cary Lee Petersen, 16CR230
(AET) - Legal Argument in Support
for Omnibus Motion and Pro Se
Representation

This Memorandum of Law, Table
of Contents is as follows:

I. Overview - Purpose of Pleadings

II. Definitions

III. Memo Points

IV. Related Exhibits and Case Law
[See notes included and written
on exhibits; all exhibits from
trial, other cases filed before
trial known to this court]

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I OVERVIEW - Purpose of Pleadings

Defendant, Peterson's pleadings for this Omnibus Motion open with a request for an Exparte Motion for Waiver of Counsel in efforts to expedite proceedings and limit use of judicial resources, as this case has been open for almost three years, and has been adjourned seven times [for Sentencing] in the past three months, primarily due to implacable disputes and errors with the Pre-Sentence Report, precluding Parties from normal post-conviction proceedings, which would include the Defendant's right to an appeal to vacate a sentence, and enter a motion for release while awaiting appeal pursuant to 18 U.S.C. 3143, as the Defendant is not waiving his Sixth Amendment Right to legal counsel for related case pending, including administrative action from an Agency of the government. Hence, the Defendant is incarcerated in New Jersey, yet has pending legal action in other jurisdictions and venues, inferred by this case.

Additionally, Defendant requests that current defense counsel, Eric J. Marcy, Esq. may be appointed as Standby Counsel for Defendant hereafter, until final judgment is made for this case.

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It is to the Defendant's understanding that any reconsideration of a motion for judgment of acquittal pursuant to Rule 29 (or a new trial under Rule 33 as an alternative) is weighed upon whether the evidence presented at trial was sufficient to sustain the conviction. Additionally, the court has to be convinced that the evidence proved the government's case beyond a reasonable doubt, and in a way sits as the thirteenth juror. In this regard, new evidence [meaning "known" or "after-discovered"] has been discovered, or was known to the court or Parties and/or was in existence at the time of trial but the Defendant could not have reasonably discovered with reasonable diligence, or was able to access or present to the court for purposes of trial due to excusable neglect pursuant to Rule 45(b) or preclusions by intervening and superseding causes of related legal action and proceedings.

Thereby, Defendant seeks a reconsideration for the Motion for Judgment of Acquittal, as the availability of new evidence [which was known to the court and Parties before or during trial] was not available when the court issued its order for the [initial] Rule 29 motion; [and] "the need to correct a clear error of law or fact or to prevent a manifest injustice." *May's Seafood Cafe v. Quinteros*,

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176 F. 3d 669, 677 (3rd Cir. 1999); *United States v. Croce*, 355 F. Supp. 2d 774, 775 (E.D. Pa. 2005) (applying the same standard to a motion for reconsideration in a criminal case.

Ad hoc, Defendant did not obtain the Notice of Appeal from Office of Information Policy [Case ID: DOJ-AP-2019-000176] at U.S. Justice Department regarding 'blocked' and obstructed personal information on Defendant, Cary Lee Petersen's FBI reports requested by way of FOIA request (with proper I.D. verification), and by court motion [both attempts] made before Petersen trial began. Hence, the FBI erred, 'blocked', and withheld materials and reports specifically to curtail the jury verdict and filing of the motion for an acquittal or new trial under Rule 29 and Rule 33, which has resulted in Defendant requesting for reconsideration to be granted for the extraordinarily rare and unusual circumstance pursuant to Rule 45(b)(1)(B), 'excusable neglect' [by counsel], as in *United States v. Figuerca*, Case 0094 (U.S. E.D. Pa. 3rd Cir. 2007) where Rule 45(b) was applicable to grant a motion for a new trial based on newly discovered evidence under Rule 33(b)(1). Rule 45(b) was amended in 2005 to conform to amendments to Rules 29, 33, and 34 which have been amended to remove the requirement

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that the court must act within the seven-day period specified in each of these rules if it sets another time for filing a motion under these rules.

Furthermore, Defendant pleads that the 'blocked' (or "classified") FBI reports [on Defendant, "Peterson" only] is of such nature to draw a clear nexus between claims [supported by enclosed evidence] in Peterson v. Garvey, 3:18-CV-14649, and Peterson v. RVPlus, et al., which U.S. D.J. Stark in Delaware decreed a stay [on Peterson v. RVPlus] due to "overlap" among USA v. Peterson and his [civil] case, an order made a few days before Peterson trial began; a significant portion of "content" is among Defendant's FBI reports that were denied for release on December 11, 2018, nearly nine months after the initial requests pursuant to FOIA Request Policy for an individual's [own] personal information on record with a Department or Agency, content on FBI reports that exculpate Defendant on counts of the indictment and would "probably produce an acquittal." United States v. Cimera, 459 F.3d at 458. Hence, impeachment evidence, derivative evidence, as well as exculpatory evidence falls within the Brady rule (citing Giglio v. United States, 405 U.S. 150, 154, 92 S. Ct. 763, 31 L. Ed. 2d 104, 1972).

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Further, the evidence in Peterson v. Garvey, a newly filed civil case bears very similar (or same) exhibits as in Peterson v. RVPlus filed before USA v. Peterson trial began (i.e., email chain exhibit which infer that 'Garvey filed the federal charges' against Defendant, Peterson in efforts to "obtain an improper advantage on a civil matter", a violation to N.J.S.C. provision R.P.C. 3.4(g)). Ad hoc, the aforesaid evidence which infers ^{that} "Garvey" and his "associate" were liable [directly, indirectly, constructively, or vicariously] for frivolous criminal charges of this case, which should have been presented by the government upon defense counsel's request for all Brady materials, including any third-party, qui-tam, or Agency complaints filed against Defendant regarding the claims of the indictment in this case specifically, which resulted in no response from the government. Thus, the FBI reports would confirm "Garvey-Dee" claims, as well as confirm the theory of Daloisio Doctrine of Addendum Two in Peterson v. Garvey, and that "Peterson" was at no time the "responsible person" for RVPlus, and only possessed control of DBS Distributors and ECCO2 Corp, according to "known" [trial] exhibits of this case, and ^{exhibits of} related civil cases in New Jersey, Delaware, Ohio, and California, which all [but Garvey case] were filed before Peterson trial began.

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II. DEFINITIONS

A. "reasonable doubt": defined as "a doubt based on reason and common sense after careful and impartial consideration of all evidence in the case", per Jury Instruction 10, United States v. Flonnory, No. 5:09-CR-163-M-1 (W.D. Okla, Sep. 16, 2009)

B. "Garvey": defined as a law firm based in Washington, D.C., owned by Brad Duetsch, Senator Bernie Sanders' 2016 Presidential Campaign Committee who made public comment on Defendant's arrest [that he arranged] on March 13, 2016 for charges of this case according to the evidence in Peterson v. RVPlus, [also] Peterson v. Garvey, and now referenced in media controversy in the public domain, and raise concerns of potential disservice to public interest, as recent news articles implicate.

C. "Nonevent": defined as the purported "reverse-merger" transaction between RVPlus, Inc. and DBS Distributors that did not complete due to breach of contract by "Seller", Christopher Day and "Seller" attorney, Gregg Jaclin, who maintained actual control in management of RVPlus, Inc. according to government witnesses of this case, and claims and evidence from related cases, and corporate records on file with the State of Delaware Office of

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Corporations.

D. "ECCO2": defined as a corporate brand trademarked and owned by Defendant (est. 2009), operating in the ~~the~~ capacity of a for-profit Delaware corporation, DBS Distributors, and in a non-profit capacity under ECCO2 Corp, a Texas corporation, the parent licensor/owner of "ECCO2" intellectual property rights; an enterprise launched to conduct research and development of "green" technologies for energy efficiency.

E. "Daloisio's Doctrine" defined as — Garvey's tort and conspiracy that Garvey client, "TK" inferred was the cause of the "federal charges" to maliciously prosecute "Cory [Lee Peterson]" — "let's say "A" manufactured evidence against you and gave it to "B", who in turn, knowing it was false, convinced "C" to file a criminal complaint. "D" investigates the complaint and finds out the evidence ^{was} manufactured by "A" but convinces "E" to prosecute you. "E" learns of everything and does nothing about it. Hence, A, B, C, D, and E are liable for all of the torts (or conspiracies) committed by any of them under N.J.S. 2C:5-2 and U.S.C. 875 and 876; the judge ["E"], however, has judicial immunity."

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F. "responsible person": see enclosed item marked as "Ex. 8", USA v. Carrigan for definition pursuant to U.S.D.J. Anne E. Thompson's judicial opinion.

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12/11/18 Notes Rule 29 Renew

" Background
 [Creation of RVPlus]

[Creation of DBS Distributors and ECCO2 Corp, ~~as~~ hereafter referred to as "ECCO2" collectively]

[Agreements related to ~~RVPlus~~, ~~the~~ the purported RVPlus-ECCO2 "reverse-merger", hereafter referred to as "Revergent"]

[SEC Intervention in 2013]

[Pro-Sanders PAC negative press involving Peterson, Sanders, and "James Bond" actor ~~as~~ known as "Craig" in Garvey case, hereafter referred to as "Garvey Intervention"]

[~~Peterson v. RVPlus~~ Peterson v. RVPlus, et al. civil case 1:18-cv- , hereafter referred to as "Delaware Case"]

NOTE: [Plaintiff(s) have not created a fact issue with respect to three elements: reliance, scienter, and proximate cause — Rattliff v. Baan Co. (11th Cir. 2003)]

Scienter requires a proof a "mental state embracing intent to deceive, manipulate, or defraud," ~~Bryant v. Arado Brands, Inc.~~ Bryant v. Arado Brands, Inc., 187 F.3d 1271, 1282 (11th Cir. 1999) — meaning — ~~Defendant~~ Defendant acted with "severe recklessness" opposed

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12/11/18 Rule 29 Renewal
 to "good-faith". Hence, as
~~Barr~~ Ratliff v. Baan Co.,
 at [Id.] 1282, n. 18, the
~~Barr Defendant~~ Defendant pleads
 in this motion that there was
 no evidence presented by the
 government that Defendant, Peterson
 acted with the requisite scienter
 because he relied upon the advice
 of auditors, assumed the auditors,
 conduct was appropriate, and
 relied on that advice in good
 faith. Thereby, severe recklessness
 cannot be proven. [See SEC v.
 Caserta, 75 F. Supp. 2d 79, 95
 (E.D.N.Y. 1999)].

Kinross

interpolat
 ed
 who testified
 on behalf of
 gov't

~~Defendant~~ Additionally, Defendant pleads
 that the government did not
 demonstrate a proximate link
 between their claims of false
 certification and securities fraud
 and their alleged "damages"
 and "victims", as the ~~perpetrated~~
 "Blue Sheets", ~~perpetrated~~ from a
 non-governmental source purported
 in an affidavit and document
 not presented until after ^{Peterson} trial.

Additionally, Defendant pleads
 that ~~the~~ ~~Non~~ Nonerent agreements
 contained "clauses" and "disclosures"
 that were to protect the Defendant
 in the occurrence of breach of
 contract, fraud, or ~~malpractice~~,
 wrongful acts, or professional error
~~commissioned~~ by Seller, Day

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12/7/18 Rule 29 Renewal

[In the most favorable light of the government]

1. The gov't witnesses from Africa testified that the material agreements with multiple parties for foreign transactional projects we interpolated in one way or another. Thus, any interpolation among a public disclosure submit to the SEC would be deemed a "false statement" if the interpolation appeared to deceive the public in efforts to defraud them, ["willfully"] ["knowingly"]

Ad hoc:

- (A) ~~Atta~~ Foreign minister Harrison [Liberia] stated he did not sign the agreement; his brother who worked for him did. Hence, this means his testimony ~~is~~ was given in lieu of another person which was not pursuant to any order of this case. In addition, testimony from Harrison exposes acts of negligence, misrepresentation, and deceit on his behalf since the signature line for his portion of the Agreement from Liberia MoU was to be signed by Harrison Luo, Minister of Economic Affairs for Liberia, not a third-party in concert and participation, or proxy acting on behalf of him;

Further, nor evidence under Brady or Jencks Act was ever presented by the gov't to confirm whether

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12/7/18

Inference - Rule 29

or not both African foreign ministers were within "official capacity" to act on behalf of the country that were said to be from, nor were they properly identified to be whom they claimed to be (i.e., diplomatic passport; citizen passport; verification from foreign nation's embassy or consulate in the U.S.) — meaning, acting on behalf ^{of a} ~~on their~~ foreign government or foreign gov't agency in "official" capacity to enter the aforesaid material agreement for aforesaid foreign gov'ts, and thereafter communicate with a U.S. gov't agency, which circumvents [proper chain of command] State Department duties and Ministry or Departments of Foreign Affairs in foreign nations. Hence, the gov't failed to present any of the aforesaid evidence before, during, or after trial, both, violations to Brady and Jencks, as it was ordered ~~to do so~~ by the court to do so.

Thereby, the emails ^{unlawfully obtained by SEC in 2013 via duplicity [5th violation]} between Defendant and the African Foreign Ministers only infer that a material agreement was entered between them and for whatever reason it was breached due to material noncompliance, which is a civil matter unrelated to the matter at hand. Thus, the "unverified" foreign gov't witnesses' inference to material noncompliance does not provide any direct or circumstantial evidence beyond reasonable doubt to

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12/7/18

Rule 29 Renewal

[material
noncompliance]

to infer that the breached
material agreements for foreign
transactional project induced any result.
of "false statements" ^{willingly} being filed
with the SEC to commit fraud or
disserve the public in any way.

Ad hoc, the Liberian Minister stated
that he did not ~~sign~~ view/sign
the final ~~draft~~ draft of the "MOU".

Additionally, both African foreign gov't
ministers' ^{testimonies} were recollecting ^{events} that ^{occurred} ~~very remote~~ ~~in 2012~~
in 2012,
which were very remote from their
testimonies made at trial in May 2018.
Hence, the gov't failed to ~~present~~
present Brady evidence, as past
voluntary statements or affidavits
to cross examine the two aforesaid
witnesses at trial.

NOTE: Circumstantial evidence is based
on "inference", not "implication". Further,
the inference of evidence must be
beyond ~~any~~ reasonable doubt — even
an implication that fraud and false
statement(s) were begotten from a ^{foreign} trans-
actional project "gone south" due to
material noncompliance is less than
marginal.

18 12/7/18 Inferences Rule 29

Foreign diplomat, Zakari ends his testimony with Defense counsel, stating that he testified because the breached material agreements caused him embarrassment with the Nigerian foreign minister, Safana and he "was angry with [Defendant] Cary Lee Peterson." ~~He~~ ~~testified~~ In addition, Zakari states in his testimony that Peterson never was a representative from his non-governmental organization at the UN, yet the UNFCCC director from Germany ~~testified~~ testified to multiple UNFCCC documents that Defendant attended multiple UNFCCC events as an accredited representative for Zakari's NGO, Center for Climate Change between 2010-13, which contradict ~~the~~ Zakari's testimony allegedly induced by [self-proclaimed] "anger" for Defendant.

Thereby, Zakari's testimony was not credible in anyway, was similar to the foreign ministers who remotely recall the material agreement (and related event that led up to it) in 2012, and provide no inference of evidence to ANY charges of the ~~the~~ indictment of this case.

~~Similarly~~ Similarly, the gov't fails to present any prior interviews with Zakari held before the trial (i.e., SEC 2014) to cross examine the witness; Brady ~~no~~ violation.

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12/7/18 Intercesses

Further, the three CPAs that testified ~~as~~ as gov't witnesses had all been sanctioned by SEC and/or ~~a~~ a state ^{regulated} ~~regulatory~~ tribunal for certified public accountants around or about the same time they claimed to work with RVPlus.

for malpractice
wrongful
acts

Additionally, the aforesaid accounting experts were cross examined on evidence initially obtained by Petersen via duplicity ~~of~~ of the SEC in 2013, who purported to be conducting a civil investigation for a penny stock company that appeared to be operating recklessly. Ad hoc, at no time did the SEC warn Petersen of criminal action (or ^{their} recommendation of it) while coercing him for RVPlus materials ~~which~~ which Petersen delivered ^{voluntarily} via upload to Dropbox before the SEC Administrative Subpoena being sent ~~in~~ in 2013, which included not warning that he may face criminal charges ~~and~~ and/or may need to hold to his 6th Amendment right to consult with a [criminal] attorney on ~~the~~ the prior [now present] issues at hand. Thus, the SEC was fully informed by Petersen of the negligence, wrongful acts, and disputes related to RVPlus, Gregg Saelim (~~the~~ securities attorney), and RVPlus acting corporate officer in control of mgmt, Chris Day.

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12/7/18 Inferences Rule 29

~~Additional~~ ~~the~~

Additionally, none of the three CPAs ever met Petersen in person, nor did proper due diligence ~~at the~~ ~~beginning of~~ ~~the~~ at ~~the~~ the "start of business" to identify "Cary Lee Petersen", as an individual, or a person who was [in fact] "CEO", a corporate officer, (or equivalent) for RVPlus, Inc. Hence, the gov't failed to present prior materials or evidence besides ~~the~~ ~~email~~ email copies that appear to be between Defendant and "CPAs". ~~Whereas,~~ ~~the~~ a digital email signature from an individual purporting to be a [nominal ~~or~~ or "official"] "CEO" (or equivalent) for a publicly trading company does not suffice verifying identity and official title beyond "hearsay". Thus, the three [sanctioned] CPAs were within their official capacity ^{as CPAs/auditors} when the "RVPlus Events" occurred yet exemplify negligence and malpractice as public accountants by failing to conduct such verification of a public filer that they must attest to, as they did for this instance. ~~Ad hoc,~~ Ad hoc, had Defendant not been a public figure, easily found on the internet or with media archives, or been pointed-out by a third-party during trial, the gov't witness would have never been able to identify who the "CEO" really was at RVPlus.

[in general]

modus operandi

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12/7/18 Inferences Rule 29

Again - in the most favorable light of the gov't, as decreed by the SEC in Admin Proceeding Order against Day and ARTCO, Peterson was aided and abetted by Day and ARTCO [and "Promoter", Jaclin], who caused him to commit securities fraud ~~under Securities Exchange Act~~

~~Fed. Crim. Proceedings, that~~
~~and should have been~~
~~known by Day and ARTCO~~
~~that they were~~
~~involved in~~ [unknowingly

due to association as a nominal CEO to the public ~~and~~ between May 2012 and ~~and~~ Peterson ~~around or about~~ June 2013 when Peterson confirmed from

FINRA, SEC, ~~and~~ Delaware state, and EDGAR Filing Agents that has was not the listed "CEO", "corporate officer", "fiduciary", "principal", or "responsible person" (pursuant to U.S.D.J. Thompson's definition in USA v. Carrojan), ~~which~~

which inferred that the KDP Partners, which included Tom Klein, ~~and~~ and me had been defrauded by Gregg Jaclin, Christopher Day, and ARTCO ~~and~~ the purported RVPlus, Inc.

- DBS Distributors, Inc. "reverse-merger" transaction ~~and~~ announced to this general public via SEC filings ~~and~~ by Day and/or Day's "attorney" and "Promoter" [Jaclin] ~~that~~

~~that they were~~

around or about

OTC Markets

Inferences

Rule 29

(A) ~~the~~ ~~following~~ ~~causation(s)~~ ~~ie~~ ~~that~~ ~~are~~ ~~inference~~ ~~of~~ ~~this~~ ~~case~~ ~~the~~ ~~statement~~ ~~in~~ ~~the~~ ~~?~~ and the several other related cases among OH, NS, CA, DE, and DC:

EDG

[series]

(a) Day and Licensing

Red a. Elaborate
more on the

~~not returning calls or responding to dispute~~

(23)

12/8/18 Inferences Rule 29

- RVPlus not replying to dispute calls or emails

- RVPlus refusing to ^(for obstructing) forwarding of documents pursuant to "Agreements" (i.e., ^{issuance of} stock certificates ~~and purchase~~ for restricted shares from purchase and licensing agreements; ~~and~~ ~~etc~~ ~~board minutes~~, ~~articles~~ and ~~resolutions~~ of corporation, [counter-signed] engagement letter from Anglow-Jaclin law firm, RVPlus attorney, which was not obtained until ~~and~~ ~~and~~ around or about November 2016 from KDP, Klein, ^{Herbert} ~~and~~ v. Jaclin-Day civil suit in Ohio known to the court, USAO-NJ, FBI, SEC, and my defense counsel before jury trial took place in May 2018.

● Ad hoc, with proof of ownership of corporation stock ^{and official} corporate documents,

(a) Peterson was unable to manage any duties or responsibilities of the Corporation himself at SEC, EDGAR, banks, property management firms, ^{corporate} insurance carriers.

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11/18/18 Legal Notes

Legal Standard for ~~Pretrial~~ Motion for Judgment of Acquittal

In reviewing a Rule 29 motion for judgment of acquittal, a district court must consider the evidence, both direct and circumstantial, "in the light most favorable to the prosecution" to determine whether the "body of proof, as a whole, has sufficient bite to ground a reasoned conclusion that the gov't proved each of the elements of the charged crime beyond a reasonable doubt." United States v. Lara, 181 F.3d 183, 200 (1st Cir. 1999). This standard requires the resolution of all evidentiary disputes and credibility questions in favor of the gov't; the Court must also draw all reasonable inferences in favor of the government's case. United States v. Savarese, 686 F.3d 1, 8 (1st Cir. 2012). Thus, the jury's verdict stands unless the evidence could not have persuaded a rational trier of fact of the defendant's guilt beyond a reasonable doubt. United States v. Soler, 275 F.3d 146, 150 (1st Cir. 2002) (Also citing: Lara, 181 F.3d at 200). The Court ~~not~~ assesses only the admissible evidence at trial in applying the sufficiency standard. United States v. Aviles-Colon, 536 F.3d 1, 13-14 (1st Cir. 2008).

Rule 29 Case Law

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11/18/18 Legal Notes

[define: miscarriage of justice]

NOTE: the evidence preponderates heavily against the verdict.

United States v. Pauling —

In deciding a Rule 33 motion for a new trial, courts must determine "whether letting a guilty verdict stand would be a manifest injustice." *United States v. Aguiar*, 737 F.3d 251, 264 (2nd Cir. 2013) (Also: *United States v. Ferguson*, 246 F.3d 129, 134 (2nd Cir. 2001))
 Such motions are granted only in "extraordinary circumstances." *United States v. McCarty*, 562 F.3d 458, 475 (2nd Cir. 2009) [Also see: *USA v. Torres*, 128 F.3d 38, 48 (2nd Cir. 1997) where a court is left with a real concern that an innocent person may have been convicted; *Aguiar*, 737 F.3d at 264; *Ferguson* 246 F.3d at 134]

RULE 29
 [a renewed rule 29 motion, "granted"]

US A

✓
Peterson

rule
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1-29

in top

+ Omnibus

Brief

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